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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,952	04/24/2006	Toru Kawaguchi	P29804	6004
52123 7590 01/29/2010 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER PEARSON, DAVID J	
			ART UNIT	PAPER NUMBER
			2437	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/576,952	Applicant(s) KAWAGUCHI ET AL.	
	Examiner DAVID J. PEARSON	Art Unit 2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-32 and 35-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-32 and 35-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 27-32 and 35-37 have been amended. Claims 26 and 34 has been canceled. Claims 38-39 are newly added. Claims 27-32 and 35-39 have been examined.

Response to Arguments

2. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claims 35-37 and 39 are objected to because of the following informalities:

Claim 39 recites, "a playback control information recorder that recodes..."

Examiner believes it should be "records" instead of "recodes" and will treat the claims as such for the remainder of the Office Action.

Claims 35-37 inherit the deficiency of the claim they depend on.

Appropriate correction is required.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 35-37 and 39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 35-37 and 39 are directed towards “a content playback control terminal.” The “terminal” is comprised of “a license information recorder”, “a playback control information recorder”, “a license information processor” and “a playback control information processor.” According to the Specification, page 35, lines 11-15, one embodiment of the “terminal” is a mode where all operations of the terminal are a program. Therefore, the claimed “terminal” can be composed entirely of software and is non-statutory subject matter. In order for claims 35-37 and 39 to be statutory in all embodiments, they must include at least one physical component (e.g. cpu executing instructions of the program, memory storing instructions/content). Note MPEP 2106.01 for guidance on computer related non-statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 27-32 and 35-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Nishimoto et al. (U.S. Patent Application Publication 2004/0093494; hereafter "Nishimoto").

For claim 31, Nishimoto teaches a content distribution server, comprising:

- a license information generator that generates license information containing a content key and a usage condition (note paragraph [0034]);
- a content storage that stores content (note paragraph [0034]);
- A content encryptor that generates encrypted content by encrypting the content stored in the content storage by the content key (note paragraph [0034]);
- a playback control information generator that generates playback control information (note paragraph [0034]) describing a special section **subject to** a restriction **of** a special playback of the **content in the** special section (note paragraph [0082]); and
- A communicator that transmits the license information generated in the license information generator, the encrypted content generated in the content, and the playback control information generated in the playback control information generator (note paragraph [0037]),

Wherein, the license information generator includes, **in the usage condition, information specifying a possibility/impossibility of the special playback in the special section** (note paragraph [0040]).

For claim 38, Nishimoto teaches a content playback control method comprising:
storing in a memory (note paragraph [0059]), license information containing a content key and a usage condition (note paragraph [0055]) and playback control information describing a special section subject to a restriction of a special playback of content in the special section (note paragraph [0054]);

decoding encrypted content using the content key only when the usage condition is met (note paragraphs [0056] and [0062]);

controlling a playback of the decoded content based on the playback control information (note paragraph [0111]);

determining whether the usage condition includes information specifying a possibility/impossibility of the special playback in the special section (note paragraph [0109]);

determining, when the usage condition includes the information specifying the possibility/impossibility of the special playback and an instruction to perform the special playback is received (note paragraph [0110]), whether the special section includes a point at which the special playback is performed according to the playback control information (note paragraphs [0111]-[0112]); and

determining, when the special section includes the point at which the special playback is performed, the possibility/impossibility of the special playback for the decoded content (note paragraph [0112]).

For claim 39, Nishimoto teaches a content playback control terminal comprising:
a license information recorder that records license information containing a content key and a usage condition (note paragraph [0034]);

a playback control information recorder that records playback control information describing a special section subject to a restriction of a special playback of content (note paragraph [0033]);

a content decoder that decodes encrypted content using the content key and plays the decoded content based on the playback control information (note paragraph [0043]);

a license information processor that passes the content key to the content decoder only when the usage condition is met (note paragraphs [0056] and [0062]); and

a playback control information processor that controls the playback of the content in the content decoder based on the playback control information (note paragraph [0111]), wherein:

wherein the license information processor determines whether the usage condition includes information specifying a possibility/impossibility of the special playback (note paragraph [0109]);

when the usage condition includes the information specifying the possibility/impossibility of the special playback and an instruction to perform the special playback is received (note paragraph [0110]), the playback control information processor determines whether the special section includes a point at which the special playback is performed (note paragraphs [0111]-[0112]); and

when the special section includes the point at which the special playback is performed, the playback control information processor determines the possibility/impossibility of the special playback for the decoded content and instructs the content decoder (note paragraph [0112]).

For claims 27 and 35, Nishimoto teaches claims **38** and **39**, wherein the special playback comprises at least one of forward, rewind, skip and jump (note paragraph [0086]).

For claims 28 and 36, Nishimoto teaches claims **38** and **39**, wherein **the** restriction **of** the special playback is described by a possibility/impossibility code (note paragraph [0040]).

For claims 29 and 37, Nishimoto teaches claims **38** and **39**, wherein **the special section** is described on a per-segment basis (note paragraph [0071]).

For claim 30, Nishimoto teaches claim **38**, wherein the license information manages the content key and the usage condition as a pair (note paragraph [0055]).

For claim 32, Nishimoto teaches claim 31, wherein the communicator transmits the license information as a pair **comprising** the content key and the usage condition (note paragraph [0037]).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PEARSON whose telephone number is (571)272-0711. The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm; off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. J. P./
Examiner, Art Unit 2437

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2437